

10/14/65  
JRE Comments

MSA-S-1829-4905

CE 646-05	Tunmillo, Peter, Jr.
VAR	3178

Aut 11/2

Robert L. Ehrlich, Jr.  
Governor

Michael S. Steele  
Lt. Governor



Martin G. Madden  
Chairman

Ren Serey  
Executive Director

**STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338  
[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

October 19, 2005

Mr. Cliff Houston  
Office of Planning & Zoning  
129 E Main Street, Room 300  
Elkton, Maryland 21921

RE: Variance #3178  
Peter Tummillo, Jr.

Dear Mr. Houston:

I have reviewed the variance application for the Tummillo property. The applicants are requesting a variance to build four dwellings in the 110-foot Buffer on four lots. The four lots are currently developed with one dwelling, a carport, two sheds, and two concrete pads. The lots are in the LDA and are designated Buffer exempt. No site plan was submitted with the application showing the proposed dwellings in regards to their location or size; a site plan was included that shows an existing dwelling across Tract 1, Parcel 1 and Tract 2, Parcel 1, a carport on Tract 1, Parcel 1 and Tract 1, Parcel 2, two sheds on Tract 2, Parcel, a concrete pad on Tract 2, Parcel 2, and another concrete pad on Tract 1, Parcel 2.

Without a site plan showing the proposed development, it is impossible to determine whether the proposal can meet the County's Buffer exemption provisions, impervious surface limits, and the variance standards. We strongly urge the Board to require the applicant to provide all pertinent information prior to the hearing with sufficient time for this office to review the material and provide written recommendations.

We also recommend the Board consider the following cases from the Maryland Court of Appeals: *Friends of the Ridge v. BGE* [352 Md 645 (1999)] and *David H. Remes v. Montgomery County, Maryland et al*, 2005. These cases address the doctrine of merger on individual adjacent lots in common use, which appears to be applicable in this situation. I've enclosed the *Remes* case, which I discovered after we talked last week.

Mr. Houston  
October 19, 2005  
Page Two

It has come to our attention that the Buffer on the property was recently cleared. (See attached photos.) I have talked to Mr. Joe Johnson in your office and he was not aware of any approvals to clear Buffer vegetation on site. No variances should be granted before this violation has been addressed.

Thank you for the opportunity to comment. Please include this letter in the file, and submit it as part of the record for the variance. Please notify the Commission in writing of the decision made in this variance.

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger". The signature is written in dark ink and is positioned below the word "Sincerely,".

Regina A. Esslinger, Chief  
Project Evaluation Division

Enclosures

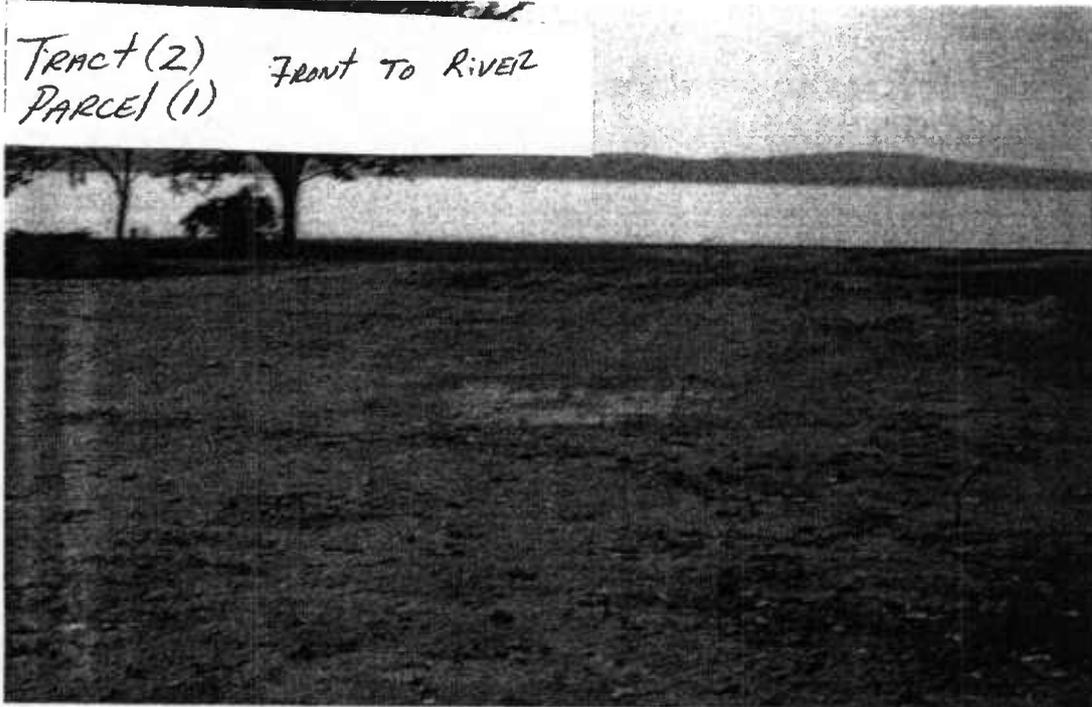
RAE/jjd

cc: Joe Johnson  
CE646-05

TRACT (2) RIVER TO FRONT  
PARCEL (1)



TRACT (2) FRONT TO RIVER  
PARCEL (1)



161 Greenbank Road

October 11, 2005

Ms. Regina Eslynger  
Critical Area Commission

Enclosed are pictures of property belonging to Peter and Diane Tummillo. Tract and Parcel numbers are on the pictures with views from and to the river. I am also enclosing the listing from the Real Estate paper. Please note there are (4) lots total I have pictures of, but only (3) lots are for sale.

Listing the lots for sale without obtaining a variance first seems out of order.

Looking at Tract (2), Parcel (1) from the real estate clip, you can see how wooded this area was. Look at the picture of the same tract/parcel and note this is no longer the case. Approximately 3 weeks ago, Mr. Tumillo had an excavator remove the trees and stumps in preparation for building. Jim Reynolds, who lives one lot away, has been trying for almost 6 months to get permission to remove (1) diseased tree and still has not obtained it. Obviously Mr. Tumillo has no regard for Critical Bay policy.

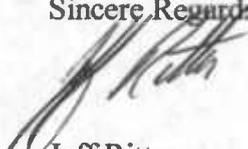
I have spoken on numerous occasions the surveyor, Mr. Hopkins from Hopkins Engineering when he was working for Mr. Tummillo on establishing the lot lines. He told me that he could not get the lot lines to close per the deed and also couldn't the square footage to match with what was stated on the deed. (This is a common problem in the community due to the age of the subdivision)

Mr. Hopkins set a pin at our property line, and Mr. Tummillo took it upon himself to later move it @ 3 feet into my property. If he is granted permission the build, the set back is only 5 feet. This does not allow much room for error.

It should be noted there is not even sewer to this property and the lots are too small to have a septic system installed. I don't know what is being disclosed about the property, but anyone who purchases the property, until sewer service is installed, will be unable to build a thing.

I hope these pictures help to clarify the impact of what Mr. Tumillo is doing with this property. If you are in the area, please take a look for yourself.

Sincere Regards,

  
Jeff Ritter

126 Greenbank Rd  
Perryville, MD 21903  
(410) 287-0520  
410 287-0590-fax

**RECEIVED**

OCT 13 2005

CRITICAL AREA COMMISSION

Law Offices  
**CLOWER, PARRACK & SEAMAN**

226 East Main Street  
Elkton, Maryland 21921

(410) 398-7400  
Fax (410) 398-6010

Dennis S. Clower  
David H. Parrack  
Perry J. Seaman

3178  
Withdrawn  
per letter  
NO  
opinion

October 25, 2005

HAND DELIVERED

Mr. Clifford I. Houston  
Zoning Administrator  
Office of Planning and Zoning  
Cecil County Courthouse  
129 E. Main Street, Room 300  
Elkton, MD 21921

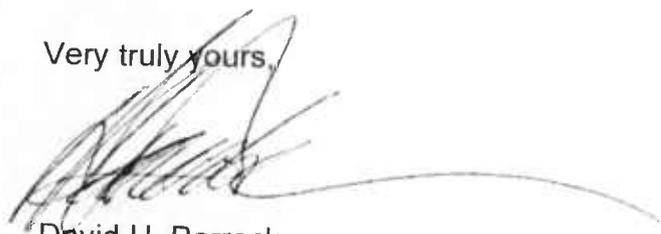
RE: Application of Peter F. Tummillo, Jr.  
Your file 3178

Dear Cliff:

As we have discussed, the Tummillo plans for construction within a Critical Area buffer exemption area will not result in any structures extending further toward the water than existing structures on adjacent properties. Accordingly, we hereby withdraw our request for a variance.

Thank you for your kind assistance in this matter.

Very truly yours,



David H. Parrack

DHP/kd

cc: Mr. Peter F. Tummillo, Jr.

**NOTIFICATION OF PROJECT APPLICATION**

Name of Project: Peter F. and Diane M. Tummillo, Jr.  
 (site or subdivision name, other)

Project location: 161 Greenbank Road, Perryville, MD 21903

Tax Map: 35 Block: 10 Parcel: 154,280,153 & 276 Lot: 4,3,5 & 28

TYPE OF APPLICATION Select all applicable	TYPE OF PROJECT Select all applicable	CURRENT USE Select all applicable
<input type="checkbox"/> Subdivision	<input checked="" type="checkbox"/> Residential	<input type="checkbox"/> Commercial
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Commercial	<input checked="" type="checkbox"/> Residential
<input checked="" type="checkbox"/> Variance	<input type="checkbox"/> Water Dependent Facility / Pier / Marina	<input type="checkbox"/> Agricultural
<input type="checkbox"/> Buffer <input type="checkbox"/> Slope	<input type="checkbox"/> Industrial	<input type="checkbox"/> Forest / Buffer / WdInd
<input type="checkbox"/> ImpSurf <input type="checkbox"/> Other	<input type="checkbox"/> Mixed Use	<input type="checkbox"/> Industrial
<input type="checkbox"/> Special Exception	<input type="checkbox"/> Redevelopment	<input type="checkbox"/> Institutional
<input type="checkbox"/> Conditional Use	<input type="checkbox"/> Shore Erosion Prot.	<input type="checkbox"/> Open Space/Rec
<input type="checkbox"/> Rezoning	<input type="checkbox"/> Agriculture	<input type="checkbox"/> Vacant
<input type="checkbox"/> Grading Permit	<input type="checkbox"/> Other: <u>Boat Storage</u>	<input type="checkbox"/> Water Dependent Facility / Pier / Marina
<input type="checkbox"/> Building Permit	<input type="checkbox"/> e.g. PUD	<input type="checkbox"/> Other: <u>Boat Storage</u>
<input type="checkbox"/> Intrafamily		
<input type="checkbox"/> Growth Allocation		
<input type="checkbox"/> Other:		

Describe Proposed Use of Project Site: See attached application:

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA	
<b>TOTAL ACRES IN CRITICAL AREA:</b>	<b>87.83 Total Acres</b>
IDA acres	Area Disturbed
LDA acres	No. of Lots Created
RCA acres	No. of Dwelling Units
Agricultural Land	Forest/Woodland/Trees Created
Existing Forest/Woodland/Trees	Existing Impervious Surface
Forest/Woodland/Trees Created	
Proposed Impervious Surface	Total Impervious Surface
<b>GROWTH ALLOCATION DEDUCTED:</b>	
<b>RCA to LDA</b>	<b>RCA to IDA</b>
	<b>LDA to IDA</b>

**Local Jurisdiction Contacts:** Joseph Johnson, Resource Inspector and/or Zoning Administrator  
 Office of Planning and Zoning, 129 E. Main St., Room 300, Elkton, MD 21921  
 Phone: 410-996-5225

Commission response required by: Oct. 7, 2005 Bd. of Appeals Hearing: Oct. 25, 2005

**BOARD OF APPEALS APPLICATION**  
**CECIL COUNTY, MARYLAND**

MEET. MONTH: Oct. 2005  
 FILE NO: 3178

THIS REQUEST IS FOR:

- SPECIAL EXCEPTIONS RENEWAL ( )
- SPECIAL EXCEPTION ( )
- VARIANCE (X)
- APPEAL ( )

DATE FILED: 9-15-05  
 AMOUNT PD: \$200.00  
 ACCEPTED BY: J. Empty

CK # 20109-  
9-14-05

**A. APPLICANT INFORMATION**

*mail to* →

PETER F. TUMMILLO, JR. and DIANE M. TUMMILLO  
 APPLICANT NAME - please print clearly

10 White Horse Lane Spring City PA 19475  
 ADDRESS CITY STATE ZIP CODE

APPLICANT SIGNATURE [Signature] 610 458 7756  
 PHONE NUMBER

**B. PROPERTY OWNER INFORMATION**

SAME AS APPLICANT

PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

ADDRESS CITY STATE ZIP CODE

PROPERTY OWNER SIGNATURE [Signature] PHONE NUMBER

**C. PROPERTY INFORMATION**

#1: 161 Greenbank Road, Perryville, MD 21903	5 <sup>th</sup> E.D.	05-051584	
#2: Greenbank Road, Perryville, MD 21903	5 <sup>th</sup> E.D.	05-051592	Total
#3: 161 Greenbank Road, Perryville, MD 21903	5 <sup>th</sup> E.D.	05-022983	87.53
#4: 161 Greenbank Road, Perryville, MD 21903	5 <sup>th</sup> E.D.	05-013151	acres

PROPERTY ADDRESS	ELECTION DIST.	ACCT. NUMBER
All properties: 35	#1: 154 #2: 280 #3: 153 #4: 276	#1: .1549 A #2: .3213 A
TAX MAP#	BLOCK	PARCEL
	LOT#	#ACRES
		ZONE

**D. PURPOSE OF APPLICATION** - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

Applicants seek to develop four (4) lots of record in a buffer exemption area. Applicants will comply with development rules and offsetting requirements for the property involved.

**E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.**

**F. LAND USE DESIGNATION**

Is property in the Critical Area? X YES      NO  
 If yes, Pertinent provisions provision of the Chesapeake Bay Critical Area Program: Buffer exemption  
 Is property in the 100 year Floodplain? X YES      NO  
 Is property an Agricultural Preservation District?      YES X NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

**G. PROVISIONS OF ZONING ORDINANCE:** Article XI, Section 194, et seq.

**H. SPECIAL EXCEPTION RENEWAL** - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL:

**I. SPECIAL EXCEPTION FOR MANUFACTURED HOME** - Please fill out the following information:

Will unit be visible from the road?      If yes, distance:       
 Will unit be visible from adjoining properties?      If yes, distance:       
 Distance to nearest manufactured home:      Size/Model/Year of Unit:       
 Number of units on property at present time:     

*mail to* → **PLEASE NOTE:**

The applicant is represented by David H. Parrack, Esquire. Please send all notices to Clower, Parrack & Seaman, 226 East Main Street, Elkton, MD 21921

*[Signature]*



File # 3178  
 Peter F. + Diane M. Tumillo  
 map 35 - parcels 153, 154, 276 + 280

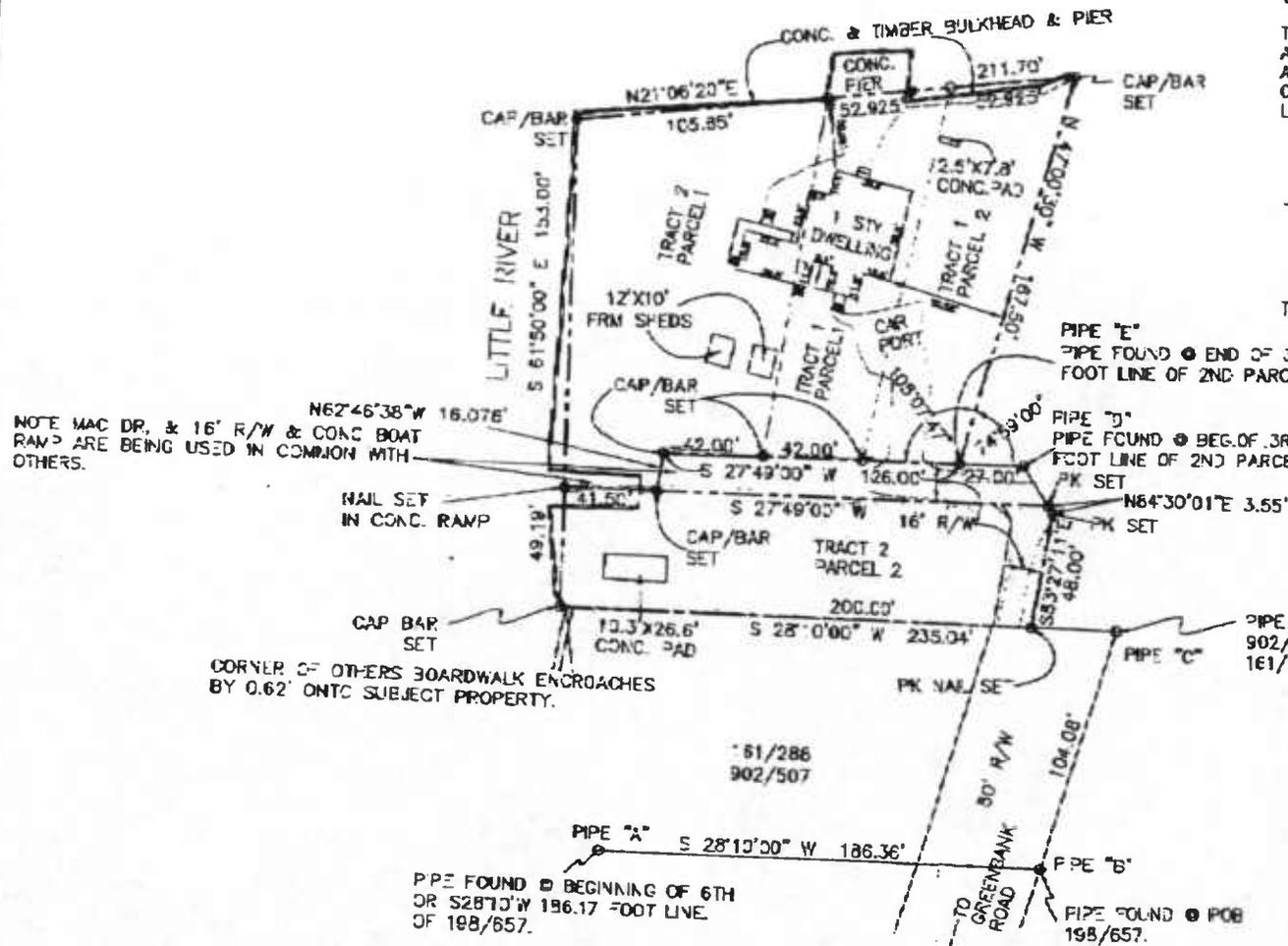
NORTHEAST RIVER

NORTH EAST RIVER

PIPES A-E WERE HELD AS CORRECT AND WERE USED AS THE BASIS FOR THE BOUNDARY ESTABLISHMENT SHOWN HEREON. THE BEARINGS SHOWN HEREON ARE BASED ON THOSE GIVEN IN THE DEED FOR THE SUBJECT PROPERTY.

THESE LOTS ARE NONCONFORMING INsofar AS ZONING REQUIREMENTS ARE CONCERNED. ALL FUTURE IMPROVEMENTS MUST BE IN COMPLIANCE WITH FEDERAL STATE AND LOCAL REGULATIONS.

TRACT	PARCEL	SQ. FEET	ACRES
1	1	718.20	0.163
2	2	7377.98	0.170
2	2	14389.72	0.323
TOTAL	2	10143.99	0.233
		38709.89	0.889



NOTE MAC DR. & 16' R/W & CONC BOAT RAMP ARE BEING USED IN COMMON WITH OTHERS.

CORNER OF OTHERS BOARDWALK ENDOACHES BY 0.62' ONTO SUBJECT PROPERTY.

PIPE FOUND @ BEGINNING OF 6TH OR S 28°10' W 196.17 FOOT LINE OF 108/657.

PIPE "E" PIPE FOUND @ END OF 3RD OR N 27°46'E 27 FOOT LINE OF 2ND PARCEL 1816/311

PIPE "D" PIPE FOUND @ BEG. OF 3RD OR N 27°49'E 27 FOOT LINE OF 2ND PARCEL 1816/311

PIPE FOUND @ POB 902/507 ALSO POB 161/288.

HOPKINS ENGINEERING  
3653 HARMONY CHURCH ROAD HAVRE DE GRACE, MD 21078  
PHONE 410-879-6364 FAX 410-893-5185

BOUNDARY SURVEY #161 GREENBANK ROAD CECIL COUNTY MARYLAND		
DRAWN L.C.H.	DATE 08/14/06	DEED REF: 1271/250
APPROVED L.C.H.	DATE 8/14/06	
SCALE 1" = 50'	SHEET 1 OF 1	PROJECT NO.